

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SIERRA VISTA

THIS AGREEMENT is entered into 14 November, 2002 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SIERRA VISTA, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
 2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
 3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.
 4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.
 5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.
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NO. 25627

Filed with the Secretary of State

Date Filed: 11/14/02

Betsy Bayless
Secretary of State

By: Timothy D. Graenewald

6. The work embraced in this agreement is to be administered by the City, and the estimated costs are as follows: Traffic Signal Preemption Devices.

*Estimated Project Cost (<i>Includes 15% CE - \$61,2830.00</i>)	\$469,838.00
Federal Aid Funds @ 94.3% (CAP)	<u>\$443,057.00</u>
Estimated City Funds at 5.7%	\$ 26,781.00

* - This includes a five percent surcharge per Local Government Engineer Memo of 4 April 1994.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction, the City will and does hereby designate the State as authorized agent for the City. The State hereby agrees to be authorized agent for the City, and with the aid and consent of the City and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of the City and the FHWA, enter into a contract with a firm on behalf of the City to whom the award is made for the construction of the project; such project to be performed, completed, accepted and paid for in accordance with the instructions and requirements of the City and the Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation. The State will enter into a Project Agreement with FHWA on behalf of the City covering the work embraced in said construction contract and will request the maximum federal funds available, including construction engineering and administration costs. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur and will pay for said increased costs.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined to be necessary to match federal funds in the ratio required.

3. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been or will be removed therefrom, prior to the start of construction.

4. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

5. Upon completion of construction, the City shall provide for, at its own costs and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands curbs and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways. The maintenance of all traffic devices for the State, are subject to the terms and conditions of Intergovernmental Agreement JPA 01-23, attached hereto and made a part hereof, by reference.

6. The City will provide personnel to administer and supervise construction, with oversight by the State's District Construction office. The FHWA will participate in the cost of construction supervision and the State's oversight costs at the pro rata established in the Project Agreement in an amount up to 15% of the cost of construction. Construction supervision costs and the State's oversight costs not participated in by FHWA shall be borne by the City.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007
FAX: 602-712-7424

City of Sierra Vista
City Manager
1011 N. Coronado Drive
Sierra Vista, AZ 85635

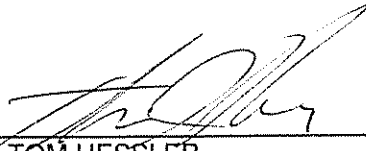
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

N WITNESS WHEREOF, the parties have executed this agreement the day and year first above written


CITY OF SIERRA VISTA

STATE OF ARIZONA

Department of Transportation

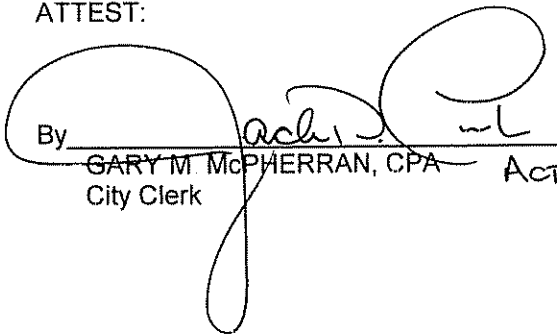
By 

TOM HESSLER
Mayor

By 

JOHN W. CARR, P.E. Staff Engineer
Acting Contract Administrator

ATTEST:

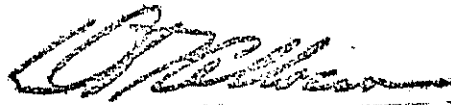
By 

GARY M. McPHERRAN, CPA
City Clerk

RESOLUTION

BE IT RESOLVED on this 18 March, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the INTERMODAL TRANSPORTATION DIVISION, to enter into an agreement with the CITY OF SIERRA VISTA for the purpose of defining responsibilities for the acquisition of federal funds, for the use and benefit of the City for the project are authorized to be expended. Traffic Signal Preemption Devices.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is positioned above a horizontal line.

DAVID R. ALLOCCO, P.E. Asst. State Engineer
Engineering Technical Group
for VICTOR M. MENDEZ, Director

RESOLUTION 4867

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO INSTALL TRAFFIC SIGNAL PREEMPTION DEVICES; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, it is the settled policy of the City Council to authorize the City staff to seek, make application for, and accept any Federal and State funding assistance for improvements to our community that are beyond the funding capability of City revenues, when it is determined by the City Council to be in the best interest of the City; and

WHEREAS, the City and State share responsibilities of providing streets and public roadways which are safe and meet the transportation needs of the general public; and

WHEREAS, the ability for emergency vehicles to preempt traffic signals is necessary to ensure safe response to emergencies and to improve the safety of all motorists; and

WHEREAS, it is in the mutual interest and benefit for Arizona Department of Transportation (ADOT) and the City to install preemption devices on all traffic signals in the City limits; and

WHEREAS, both parties desire to enter into an Intergovernmental Agreement, attached and made a part hereof as Exhibit A, that will allow ADOT to use Federal Highway Funds to pay up to \$443,057.00 of the estimated project costs of \$470,000.00, which represents a 94.3% cap on ADOT's commitment.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy of the City Council seeking Federal and State funding assistance, most recently affirmed by Resolution 4832, be, and hereby is, reaffirmed.

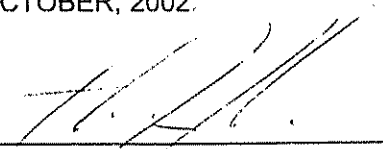
SECTION 2

That the City Council approves entering into an Intergovernmental Agreement with ADOT to share the project costs to install preemption devices on all traffic signals in the City, which is estimated to be \$443,057 from ADOT and \$27,000 from the City.

SECTION 3

The City Manager, City Clerk, City Attorney or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA THIS 24th DAY OF OCTOBER, 2002.



THOMAS J. HESSLER
Mayor

ATTEST:



GARY M. McPHERRAN, CPA
City Clerk

APPROVED AS TO FORM:



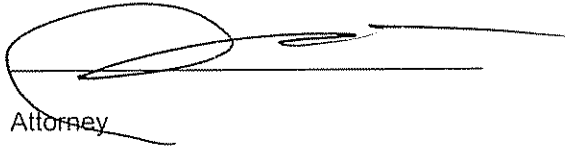
STUART L. FAUVER
City Attorney

PREPARED BY:
D. MICHAEL CLAWSON
Purchasing Manager

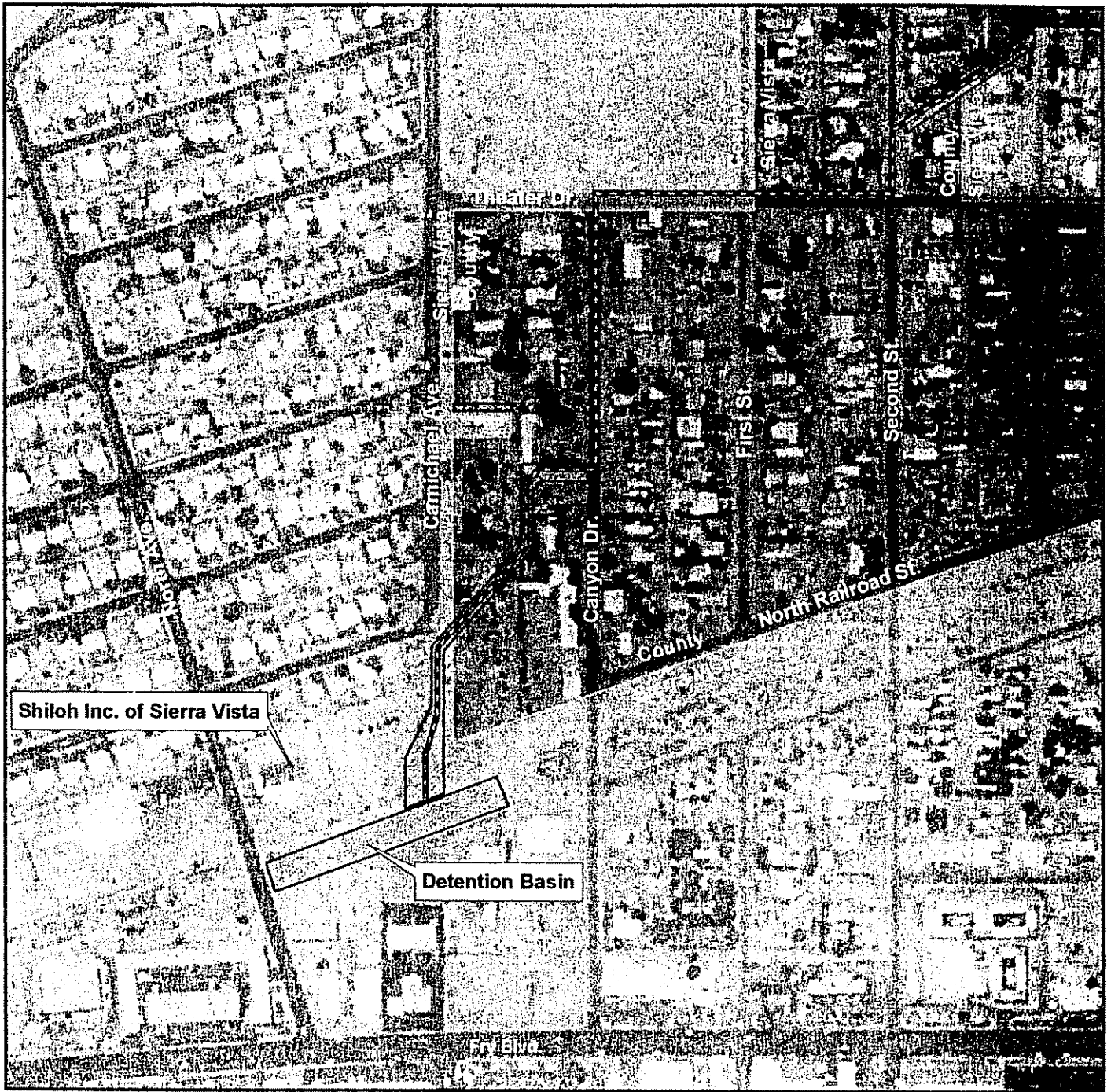
APPROVAL OF THE CITY OF SIERRA VISTA ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF SIERRA VISTA and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.






DATED this _____ day of _____, 2002


Attorney

Fry Storm Sewer System



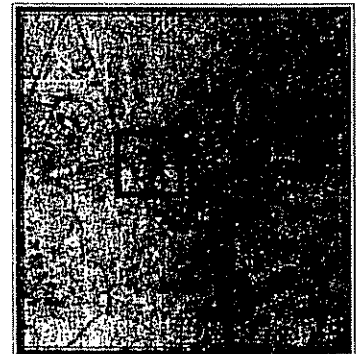
Legend

-  Underground Storm Sewer
-  Drainage Channel
-  City of Sierra Vista
-  Detention Basin
-  Drainage Easement

0 100 200 400 600 Feet



Cochise County
Highway & Floodplain Dept.





JANET NAPOLITANO
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION
1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

TRN Main: (602) 542-1680
Direct: (602) 542-8855
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680
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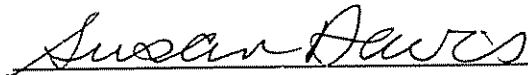
INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR02-0347 TRN (JPA 01-153), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED November 6, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/srs

Att.